



April 16, 2001

Ms. Patty Rodgers  
General Manager  
Chisholm-Trail Special Utility District  
P.O. Box 249  
Florence, Texas 76527

OR2001-1504

Dear Ms. Rodgers:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 146012.

The Chisholm-Trail Special Utility District (the "district") received a request for all billing and other information regarding a specific address. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. We have considered the exception you claim and reviewed the submitted information.

Pursuant to section 552.301(e) of the Government Code, a governmental body is required to submit to this office within fifteen business days of receiving an open records request (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. You did not, however, submit to this office a copy of the written request for information.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to submit to this office the information required in section 552.301(e) results in the legal presumption that the information is public and must be released. Information that is presumed public must be released unless a governmental body demonstrates a compelling

reason to withhold the information to overcome this presumption. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.--Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). You claim that some of the requested information is confidential under section 552.101 in conjunction with section 182.052 of the Utilities Code. This office has held that a compelling reason exists to withhold information when the information is confidential by another source of law or implicates the privacy interest of a third party. *See* Open Records Decision No. 150 (1977). Accordingly, we will address your claimed exception.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 182.052(a) of the Utilities Code provides that, with certain exceptions not applicable here, a government-operated utility must withhold from the public "personal information" contained in a utility customer's account records if the utility customer has requested that the information be kept confidential. Section 182.051(4) of the Utilities Code defines "personal information" as "an individual's address, telephone number, or social security number." You indicate that the customer to whom the submitted records pertain has requested that his or her account information be kept confidential.<sup>1</sup> Consequently, the district must withhold all "personal information" regarding that customer in accordance with section 182.052(a). In addition, the district must withhold the "personal information" of any other customers who have requested that their information be withheld in accordance with section 182.052(a). We have marked the information that the district must withhold under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code.

We also find within the submitted records information that is protected from disclosure by section 552.130 of the Government Code. That section provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

The district must withhold all of the Texas driver's license numbers, vehicle identification numbers, and license plate numbers under section 552.130.

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<sup>1</sup>You state that you have attached the customer's confidentiality request to your letter to this office. We do not find any such record in the documents that you have submitted.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.324(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

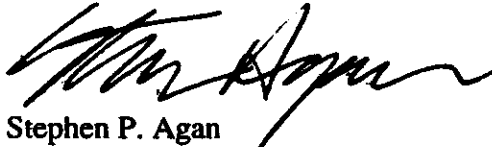
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for

contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen P. Agan", written in a cursive style.

Stephen P. Agan  
Assistant Attorney General  
Open Records Division

SPA/seg

Ref: ID# 146012

Encl. Submitted documents

cc: Mr. Michael D. Turo  
1501 Heath Drive  
Killeen, Texas 70543  
(w/o enclosures)